

SB 745

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 745
As Amended

SENATE BILL NO. 745 - By: Jolley of the Senate and Sullivan of the House.

[torts - automated external defibrillator - immunity from liability - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 76 O.S. 2001, Section 5A, as amended by Section 1, Chapter 127, O.S.L. 2004 (76 O.S. Supp. 2008, Section 5A), is amended to read as follows:

Section 5A. A. 1. Any person ~~who is qualified pursuant to this subsection~~ and who, in good faith and without expectation of compensation, renders emergency care or treatment outside of a medical facility by the use of an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct in the use of such device.

2. ~~A person is qualified pursuant to this subsection upon successful completion of appropriate training in the use of automated external defibrillators and cardiopulmonary resuscitation. Appropriate training shall consist of a course in the use of~~

1 ~~automated external defibrillators and cardiopulmonary resuscitation.~~
2 ~~Such courses shall be approved pursuant to rules promulgated by the~~
3 ~~State Board of Health and shall be subject to approval or~~
4 ~~disapproval in the discretion of the Commissioner of Health. These~~
5 ~~rules may include appropriate periodic retraining at intervals~~
6 ~~established by the Commissioner by rule.~~

7 3. Course directors and trainers who have completed the
8 training required by the State Department of Health for teaching
9 courses in the use of automated external defibrillators and
10 cardiopulmonary resuscitation shall be immune from civil liability
11 for personal injury which results from the use of the device, except
12 for acts of gross negligence or willful or wanton misconduct in the
13 teaching of such training courses.

14 B. A prescribing physician who, in good faith and without
15 expectation of compensation, writes a prescription for the use of an
16 automated external defibrillator to render emergency care or
17 treatment shall be immune from civil liability for personal injury
18 which results from the use of the device, except for acts of gross
19 negligence or willful or wanton misconduct in the prescribing of the
20 device.

21 C. An entity ~~which~~ or individual who owns, leases, possesses,
22 or otherwise controls an automated external defibrillator shall be
23 immune from civil liability for personal injury which results from

1 the use of the device, except for acts of gross negligence or
2 willful or wanton misconduct, ~~if the entity:~~

3 ~~1. Requires its own authorized agents who may use the automated~~
4 ~~external defibrillator to be qualified pursuant to subsection A of~~
5 ~~this section if not available to the public; or~~

6 ~~2. Maintains and stores its automated external defibrillator~~
7 ~~with a usage detection device which automatically signals first~~
8 ~~responders or designated qualified employees of the entity if made~~
9 ~~available to the public; and~~

10 ~~3. Maintains and tests its automated external defibrillator~~
11 ~~according to the manufacturer's instructions.~~

12 D. An entity ~~which~~ or individual who owns, leases, possesses or
13 otherwise controls an automated external defibrillator shall
14 communicate to the proper first responder the locations and
15 placements of the automated external defibrillator owned, leased,
16 possessed or otherwise controlled by the entity or individual.

17 E. For purposes of this section:

18 1. "Automated external defibrillator" means a medical device
19 consisting of a heart monitor and defibrillator which:

20 a. has received approval of its premarket notification,
21 filed pursuant to 21 U.S.C., Section 360(k), from the
22 United States Food and Drug Administration,

1 b. is capable of recognizing the presence or absence of
2 ventricular fibrillation or rapid ventricular
3 tachycardia, and is capable of determining, without
4 intervention by an operator, whether defibrillation
5 should be performed, and
6 c. upon determining that defibrillation should be
7 performed, automatically charges and requests delivery
8 of an electrical impulse to an individual's heart;

9 2. "Entity" means public and private organizations including,
10 but not limited to, the State of Oklahoma and its agencies and
11 political subdivisions, a proprietorship, partnership, limited
12 liability company, corporation, or other legal entity, whether or
13 not operated for profit;

14 3. "First responder" means an individual certified by the State
15 Department of Health to perform emergency medical services in
16 accordance with the Oklahoma Emergency Response Systems Development
17 Act and in accordance with the rules and standards promulgated by
18 the State Board of Health; and

19 4. "Prescribing physician" means a person licensed to practice
20 medicine in the state pursuant to Chapters 11 and 14 of Title 59 of
21 the Oklahoma Statutes.

22 SECTION 2. This act shall become effective November 1, 2009.

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO
24 PASS, As Amended and Coauthored.